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## THE PLACE OF THE SERVICE TAX IN MODERN FINANCE.

FOR purposes of financial investigation the state is generally treated as a species of organism possessed of certain wants the satisfaction of which is the chief concern of the science of public finance. According to Professor Henry C. Adams these "*wants are reducible to a demand for money.*"<sup>1</sup> It is not intended here to examine in detail the reasoning behind this conclusion but rather to show by independent treatment both its unsatisfactoriness from the standpoint of the science of finance and the economic mistake of allowing it to remain crystallized in an accepted doctrine. For Professor Adams, in the phrase quoted, only puts into concise formula the spirit of his most distinguished contemporaries on this subject. Indeed the "money" view is so far accepted that it scarcely evokes discussion.

The following is suggested as an improvement upon the statement of Professor Adams: *Public wants are reducible to a demand for services; which services may be obtained, either by direct impost upon the strength and intelligence of the public, or through the mediumship of goods or of money.* The social organism has no animal longings after material things; its hunger and its thirst are after such services as soldiers and judges and juries and legislators and sheriffs and clerks can render. It may obtain any or all of such services either, directly, by compelling citizens or others within reach of the taxing power to render them gratuitously; or it may obtain them by compelling the services but at the same time providing a commissary or an arbitrary money wage; or the services may be rendered entirely voluntarily in consideration of stated wages and salaries, the necessary funds being derived by a money tax: or the wants of the state may be satisfied through any combination of these methods.

<sup>1</sup> *Finance* (New York, 1898), p. 14.

The services, goods, or money required may be obtained, it should be added, either through voluntary gift or through compulsion. Both the voluntary and involuntary methods have always been and are still in vogue and while the latter method is and must be, as Professor Adams well shows, of relatively increasing importance, the voluntary method is still and is always likely to be of sufficient extent and importance to merit attention. These two methods are mentioned here because the service tax cannot be clearly understood without some consideration being given to voluntary or "volunteer" services to the state.

From the side of standard definitions it would scarcely be necessary to call attention to the "tax nature" of compulsory services rendered to the state. This nature is not made perfectly clear, however, in the text of Bastable's definition in which a tax is described as "*a compulsory contribution of the wealth of a person or body of persons for the service of public powers,*" unless we accept the view that services are goods and constitute wealth. But there is left no room to doubt the construction intended by the author by what follows by way of illustration: "Military service or forced labor for, say, repairing roads (*corvees*) is a tax quite as much as payment of money or goods."<sup>1</sup>

Professor Ely's definition of a tax is more satisfactory on this point in that it leaves no need for the construction of any doubtful terms. He defines a tax as a "*one-sided transfer of economic goods or services demanded of the citizens and occasionally of those not citizens,*" etc. And in referring specifically to service taxes Professor Ely says: "Taxes for certain purposes are still paid in labor in many of our states. These are chiefly taxes for construction, maintenance and improvement of roads in country districts." And in noting the general abandonment of the principle in cities he mentions the interesting exception of Atlanta, Georgia, where "those who fail or refuse to pay this or other taxes in money are obliged to work on the streets at the rate of thirty-five cents a day until their taxes are thus paid."<sup>2</sup>

<sup>1</sup> *Public Finance* (New York and London, 1892), p. 243.

<sup>2</sup> *Taxation in American States and Cities* (New York, 1888), p. 7.

But while compulsory service is recognized as a tax by prominent writers in their definitions and elsewhere, it is scarcely included in their general treatment of the subject of taxation, save in the way of incidental reference as a survival in culture and mostly to be deplored. Professor Adams, after condemning the road tax, and giving a qualified approval to the military tax, and commending the jury service tax, concludes that "with the few exceptions named, and others allied to these in principle, the demand of the state for labor and service, is like the demand for land, reducible to a money demand." . . . . And that what the state wants for the satisfactory performance of its duties is control over an adequate money supply."<sup>1</sup>

It is here again submitted, subject to later demonstration, that it were better both in the interest of clear thinking and in the interest of wholesome doctrines of finance for the future guidance of statesmen, to state the real things that the government wants, viz., services, and not the medium by which they are most often secured. This view is here held because, first, the direct method of satisfying public wants has never been by any means wholly abandoned, and, second, because the present tendencies in industrial development seem to offer opportunities for a renaissance of the old system adapted to modern institutions.

A recognition of the principle of the service tax is justified both on the ground of its present application and of what is here held to be the fact that it forms the parent stock from which other forms of taxes are offshoots. Professor Seligman, and, in fact most academic writers, trace our system of modern taxes to various voluntary and *quasi* voluntary contributions for the support of the sovereign.<sup>2</sup> A respectful demurrer is here taken to this view and to the idea that the history of taxation can be traced or illustrated by etymology. The terms implying gifts, aids, etc., do not seem to relate to the ancestors of our present taxes, but only to occasional customs, which may indeed have prepared the way for a transition from a

<sup>1</sup> *Finance*, pp. 18-20.

<sup>2</sup> *Essays on Taxation* (N. Y., 1895), p. 6.

service tax to a tax on goods and money, but they were not the things themselves that were metamorphosed into our modern taxes. To be sure we think of the mediæval sovereign as self-supporting and as receiving only occasional presents and aids from his subjects. And we think of the ancient state, particularly Imperial Rome, as living chiefly upon the spoils of war and the tribute exacted from conquered peoples. In Rome the regular tax upon citizens seemed to have been an ancient custom, a recurrence of which was greatly to be deplored, and one cause of its odium was, doubtless, a servile association. Regular payment to the state was deemed fit for the people of a conquered and exploited province, but not for free citizens. What in fact most nearly responded to our taxes was a payment for the privilege of occupying land, and to pay this rent or tax was to be a subject, and to receive it was to be a lord or sovereign. But in the ancient state society had progressed to that point where the sovereign was not an individual, but a collectivism, or we may say the proprietorship had become collectivistic. If historical data were available we could probably trace the ancient tax back to the service tax which in time was commuted into a money payment, but as to our modern taxes there is no difficulty in this regard.

The roots of the modern systems are to be found more in tribute out of the fruits of the land and in services rendered to the lord of the soil than in occasional gifts of money on the part of free citizens. In England under feudalism the more privileged subjects, the knights, rendered two classes of service which might be denominated taxes and aids. The taxes were paid in the most direct manner. According to Blackstone,

The first, most universal, and esteemed the most honorable species of tenure, was by knight-service, called in Latin *servitium militare*; and in the law French, *chivalry*, or *service de chevalier*. . . . To make a tenure by knight-service a determinate quantity of land was necessary, which was called a knight's fee, or *feodum militare* the measure of which, in 3 Edward I., was estimated at twelve ploughlands, and its value, though it varied with the times, in the reign of Edward I. and Edward II. was stated at £20 per annum, and he who held this proportion of land (or a whole fee) by knight-service

was bound to attend his lord to the wars for forty days in every year if called upon ; which attendance was his *reditus* or return, his rent or service for the land he claimed to hold. If he held only half a knight's fee, he was only bound to attend twenty days, and so on in proportion.<sup>1</sup>

On the other hand the aids and benevolences were certain occasional gifts, largely pecuniary, made from the tenant to the lord which tended to become perquisites and finally fixed obligations, and to prepare the way for the commutation of the personal service.

Tenure by knight-service is further described as one "by which the greatest part of the lands in this kingdom were holden, and that principally of the king, *in capite*, till the middle of the last century ; and which was created, as Sir Edward Coke expressly testifies, for a military purpose, viz., for defense of the realm by the king's own principal subjects, which was judged to be much better than to trust to hirelings or foreigners . . . but the personal attendance in knight-service growing troublesome and inconvenient in many respects, the tenants found means of compounding for it, first, by sending others in their stead, and in process of time making a pecuniary satisfaction to the lords in lieu of it. This pecuniary satisfaction at last came to be levied by assessments, at so much for every knight's fee, and therefore this kind of tenure was called *scutagium* in Latin, or *servitium scuti*, scutum being then a well-known denomination for money ; and in like manner it was called in our Norman French *escuage*, being a pecuniary instead of a military service."<sup>2</sup>

The scutages began under Henry II., and the custom soon became universal. Its arbitrary application led to the *Magna Charta* of King John, which promised that in the future scutages would only be imposed upon the consent of parliament. Thus, as Blackstone says, scutages "were indeed the groundwork of all succeeding subsidies, and the land tax of later times."

McCulloch also recognizes the service origin of taxation when he says : "The scheme of taxation now in force in modern

<sup>1</sup> *Commentaries*, book ii. ch. v.

<sup>2</sup> *Commentaries*, book ii. ch. v.

Europe had its origin in the decline of the feudal system. According to the principles of that system lands were held as fiefs of the crown, on condition of the possessors performing certain stipulated services, of which the obligation to support the sovereign when he took the field, with a body of retainers, armed and maintained at their own expense, was by far the most important.<sup>1</sup>

This leads us to recall that the state is an evolution out of private property. The lord was originally a proprietor, and the dues rendered were his recognized personal right. To own land was to be, in some degree, a sovereign, and the support of sovereignty, even in low degree in those days, required a rendering of both goods and services on the part of the tenants. The rendering of services may be in a peculiar way the progenitor of our modern system in that it is the part of the dues which suggests a common cause, the armed support of the sovereign or proprietor being as essential to the well-being of the tenant as it was to the secure dignity and power of the lord. During the stages of the evolution out of feudalism the sense of common cause and the sense of private right must have been mingled in varying proportions, the one tending to rise into democracy and the other preserving a ballast of fealty. The fealty is transferred to the community as the person of the lord is obscured by the impersonal "common good." Through these transition stages, however, the right to revert to the old service economy has never been abandoned, and it has been essential to the expanding size of the state that this element of strength be retained, either in active or in latent form.

The fundamental importance of retaining the principle of the service tax may be seen in the military needs of the state. To be sure the general military and constabulary needs of the community are now largely met out of tax receipts. These services in several countries, and particularly in those countries which have made the greatest strides in industrial progress, are procured upon a contractual basis, *i. e.*, the pay offered is

<sup>1</sup> *McCulloch on Taxation* (1845), p. 3.

intended to attract a sufficient number of officers and men. But the crucial test of the military needs comes in the time of a national crisis, when this method is inadequate. At such times a chief resource is found in the enthusiasm of the people, but this very enthusiasm may often, if not usually, rest upon a recognition of the right of the state to the service of the citizens in its hour of need. When the citizen realizes his obligation he will oftentimes not wait to be called, but be beforehand in the field. The generally accepted maxim "my country right or wrong" is an unconscious deduction from the principle of public obligation. This maxim seems, from a surface view, absurd, but when one follows it down to its roots it clearly rests upon one of the most wholesome of principles. In time of peace the citizen may analyze and criticise the quality and the spirit of his national institutions, and he ought to do so; but in time of war, when the nation is defending its peace and dignity, or its integrity, or is engaged in the prosecution of any sort of a hostile program of international import, it is all essential that its constituent units be in intense sympathy and rhythm. That is not saying that it is always best for the good of a nation that it be successful in war. On the contrary it may often reap the most glorious victories through defeat. But the chastisement should come from without and should not come from rebellion or lukewarmness from within. The perfect health of the nation requires that there be no temporizing with the doctrine of the unqualified right of the government to the service of any or all of its citizens.

The volunteer army is a recognition of this right, and it will be found, if carefully examined, to be due in large part to the existence of this political dogma. Take for example our war with Mexico. In that war the volunteer army was largely recruited from the North, and by citizens who had no sympathy with slavery or with the program of its promoters. Or take the war of the rebellion, and it is clear that the Federal troops were in large part recruited, before the application of the draft, by persons with no convictions upon the slavery question at all,



and indeed with no knowledge of the subtleties involved in the doctrine of state sovereignty about which our statesmen so much contended in the first half of the century, nor indeed as to the sense of the Federal constitution upon that point. The late war with Spain and the present war with the Philippines may also be studied with profit from this point of view. The volunteer army was in these cases composed largely of young men, preferably of unmarried men. These soldiers were not, it is safe to say, as a body, profoundly impressed with the righteousness of the cause, with the oppressions of Spain in the one case, nor with our "manifest destiny" on the other. It may be that a majority of the whole body of soldiers had no intelligent understanding of what the country was fighting for, but everyone knew that he was fighting for the country—not for its defense or protection, but in simple obedience to its commands. That is, when the bargain method of procuring services fails to meet the needs, a call to arms is addressed to a certain class of citizens. Couched in the language of a request, it has the force of a command to those members of the class addressed, who are thoroughly grounded in the principle here under discussion, and they must obey it if they have no plea in avoidance to present to their consciences. If this general request does not elicit a sufficient response the government changes it into the form of a command, and all citizens falling within the class addressed who do not present themselves for examination and enrollment are sought out and forcibly impressed into the service.

The right to impose a service tax must always reside at this vital point. The government in its extremest need resorts to the direct method of satisfying its wants, and if the exigencies do not often arise to compel a resort to this expedient it is nevertheless vitally essential that the principle be preserved.

There is another application of the service tax in the interest of public order of more frequent use, *i. e.*, the *posse comitatus*. This is an essential part of an efficient shrievalty or constabulary. It is founded upon the principle that every citizen is

bound not only to conform his own conduct to accepted canons of public order, but to use his might in compelling others so to do. The common law declares it to be the right of any citizen to arrest a lawbreaker by hue and cry when he discovers him in the commission of an unlawful act. In fact, this right is nothing more nor less than a duty which may be enforced when an authorized leader is present. A disturbance is apt to break out at any time, in any quarter, with which the regular constabulary on the ground is not able successfully to cope; and the right of the officer of the state to compel the bystanders to come to his aid is at once a great economy of public money and a wholesome educator in the sense of public responsibility.

Passing now from the consideration of the satisfaction of the more imperative military needs of the state by the direct method, to examine its application in ordinary times, we find some interesting survivals. And here it must be observed that exigencies were in former times almost omnipresent. The possession of property was often secured through a successful war, and the military favorite was allowed the immediate supervision and the major part of the usufruct, provided he should render the military service which was so frequently needed. It is interesting to note here that those countries in which real democracy and large-scale industrialism are most advanced were the first to place the militia and constabulary, for ordinary times, upon an economic basis. England and the United States have standing armies of contract soldiery, while the industrially and democratically more backward of the great nations, as France, Germany, and Russia still resort to a direct tax upon the strength, intelligence and valor of their citizens.

In the case of these countries military service in every sense is a tax. Every citizen coming within the prescribed age, and possessing the requisite mental and bodily strength, with perhaps some few exceptions, must respond to this requisition as surely as the property owner must render unto the state a certain percentage of its value or of its income. The reasons for its retention in these countries may be numerous. The chief one is doubtless

found in their peculiar geographical situation. The earlier differentiation of the citizens into civil and military, or, more properly, into industrial and military, in England and the United States, was due to their physical isolation; and the importance of a standing army of ample size and of an intelligent constituency, and the importance of a wide military education, continues to be great in countries which are separated from each other only by imaginary lines.

Some of the incidents of the system may develop into arguments for its retention, even after the military necessity may have passed, and also for its revival in those countries where it has been abandoned. As, for instance, it has a tendency to cultivate a more intelligent electorate. Citizens become more competent to vote upon questions affecting different sections of the country through some familiarity with the conditions obtaining in those sections and through some acquaintance with their fellow-citizens who reside in them. There is an education in the meeting of minds and the rubbing together of wits of people who have come together from widely scattered sections in barrack life, which might be championed, either in the interest of a more intelligent electorate, or for the sake of better general education as an end in itself. The educational purpose might be still further realized through regular instruction and lectures to the soldiers, in lines of national history. To this end, also, the troops might be moved from point to point, allowing a more forceful presentation of the great epochs of history, and also for the purpose of giving a clearer understanding of the industrial resources of the country. Thus the direct labor tax may, through its incidents, emerge into something else than a tax. The citizen soldiery in Germany, and in the other countries mentioned, involves now a service-tax—the national defense being the main object of its imposition—but if the military necessities are reduced, say, as an outcome of the Hague peace conference, to the capacity of a volunteer army, the retention of the former method would be justified on the principle of popular education. Then the specific tax motive would tend to be lost in the “common good”

motive. Its retention provides a widespread knowledge of military movements, and a general capacity for subordination to discipline, which constitutes a valuable fund to be drawn upon in time of need. But, the general education derived, as well as the usual education of the schools, constitutes a fund of intelligence which the state is continually drawing upon—and we retain the concept of a tax, or not, perhaps, according to our view of the old question as to whether “the citizen exists for the benefit of the state or whether the state exists for the benefit of the citizen.”

In the nature of things, if peace tendencies continue, the enforced military service must become less and less a tax in fact, and more and more a phase of compulsory education. The capacity of military discipline for this evolution in function may be well illustrated by the practice of many schools and colleges in America which make military drill and discipline a part of their curricula—the physical discipline seeming to be a congenial concomitant to the mental disciplines.

An unhappy incident of this metamorphosis may be a certain weakening of the sense of obligation to serve the state—perhaps in a certain commercializing of the sense of citizenship, and this might constitute a strong argument for the retention of the use of arms and the practice of military maneuvers.

A form of the service tax which is not likely ever to be superseded, and which, indeed, is apt to be extended into new spheres of public usefulness, is found in the jury service. Both the grand or inquisitorial jury and the petit or trial jury are essential parts of our modern system of apprehending and trying suspected law breakers and of determining rights. It is conceivable that the primary inquisition, the indicting process, might be performed by a permanent bureau. And yet it seems eminently fitting that the process of sifting out the probable accusations should be done by a body of men fresh from the people. In the matter of the trial of causes, both criminal and civil, it is clear that the jury for these purposes should always be provided by a direct service tax, and a tax which may in no case be

commuted into a pecuniary form, nor paid by the employment of a substitute.

The effect upon the jury system of an increasing resort to arbitration is an interesting subject for speculation. On the one hand, it may diminish the demand for jury service in so far as differences are submitted to arbitrators who are willing to serve without compulsion. On the other hand it may increase it if the law compels this sort of service. That is, if people who agree to arbitrate questions that do not involve legal rights, such as wages, etc., are able to require such persons as they may select as arbitrators to serve it would add a new species of jury service of a very great extent.

Another survival of the principle, and for the most part a lamentable one, is found in the compulsory service tax upon the roads. This principle came into the common law of most modern states from the Roman law. But the excellence of the great military roads built by Rome is not traceable to this method of construction, but to the splendid military organization. The road work done by the peasants in England in the Middle Ages, before and after harvest, provided highways which would only answer to the needs of the very low industrial development of the times, and the present survivals seem to be in most cases anachronisms. The measuring of the public highways up to the demands of an expanding trade was largely due to the investment of private capital in toll-roads, and to some extent to the commuting of the service tax into a tax on land. The results of the latter kind of transformation are well seen in Scotland, where by an act passed in 1669 members of the agricultural population were required to work the road for six days in the year, which tax was commuted under George III. to a land tax, rated according to valuation. McCulloch says that previous to the commutation the roads in Scotland were in the worst condition, but since then they have been among the best in Europe.<sup>1</sup> The steps in the history of the transformation of the road taxes from services into money, in so far as it has been made, have not

<sup>1</sup> *McCulloch on Taxation* (1845), p. 3.

been investigated for the purposes of this study, but they may have come about through the custom, with which most Americans are familiar, of allowing the taxpayer the alternative of paying in kind or in money.

Evidently contractual labor is more efficient in road work than forced labor. The city streets, for example, and the turn-pike roads owe their excellence to the kind of labor employed upon them. The differentiation of employments in urban communities renders a large percentage of the population very deficient in this kind of labor; but the agricultural population, on the other hand, are poor road workers, chiefly through disinclination. The universal inclination to get quit of one's obligations to the state as easily as possible finds a splendid opportunity under a system of road work with a friendly neighbor for a boss.

It may, however, be going too far to say that the service tax for the support of the roads has in all instances survived its usefulness. In some communities the direct method may be really the most economical—and it may sometimes happen that this is the only way open for building the roads. An instance of this latter sort was noted at the town of Chandler, in Oklahoma, in 1890. It was an instance of one of those instantaneous and spectacular settlements which has been characteristic of the opening of lands in Oklahoma and Indian territories. The town existed on the official chart issued by the government before anyone was allowed to inhabit it; it comprised a half section of land of rugged contour, and was foreordained by the act of Congress to be the first capital of Douglas county, which county was formed out of the recent tribal lands of the Iowa and Sac and Fox Indians. It was several days after the farm lands were open before the town site was subject to settlement, during which time the expectant citizens were camped without the city limits, pending the completion of the survey. The day and the hour and the minute were finally announced, and at the tick of the governor's watch he waved his handkerchief, which was a signal to a soldier to fire a volley, which, in turn, was a signal to the throng lining the border of the town site that they might come

in and seize whatever they could. Shops, stores, newspaper offices, etc., were immediately opened for business, which was not inconsiderable, since there was already a pretty fair county-full to draw upon. The ruggedness of the land and the fact that the official survey had regarded solely the points of the compass, and not in the least the lay of the land, very soon created a pressing highway problem. Traffic followed the natural lines for a little while, and matters would have gone on well enough but for the curse of the American inelastic conception of a proper town survey. As it was, it was not long until lot owners had enclosed their properties with wire fences and had forced the traffic onto the rocks and into the chasms. Grades and bridges became an immediate necessity, and the citizens assembled and voted a labor tax of three days' work per capita, or a cash equivalent, to meet this most pressing need. It was, of course, an extra legal proceeding, but the pressure of public sentiment was strong enough to make the resolution effective. In fact, in this case, there was scarcely the need of pressure of any kind; and it is noteworthy that when a social organism is young, the individual units are remarkably loyal in its service.

But it may be said that where a service road tax is useful in one case it is vicious in a thousand others, and the tendency must be continually away from it.

In addition to the other forces enumerated the tendency toward the contractual system as applied to the roads is hastened, in the course of the development of a country, by the increasing difficulty of making those who use them pay for their construction and repair. This cannot be done under any free road system. As the great common highway emerges the volume of traffic proceeds from various and distant quarters increasing in size and wearing more deeply into the roadbed as its objective point is approached. It is manifestly unjust to require the abutting property owners to provide a highway for this foreign traffic, while in the small tributary roads the equities between citizens are not seriously violated by the direct method.

The purchase of the turnpike roads on the part of the public and the turning of them into free roads must prove a powerful factor for reform in methods of road improvement. If they were turned into public toll-roads the benefit theory would be entirely subverted. But such a policy would be repugnant to present ideas and tendencies. An elastic policy might separate the main traveled road, as is done in some cases, from their small tributaries and leaving the latter under the direct system place the former upon a money basis, and tax the adjacent property owners an equivalent to the labor tax of pioneer days, plus a small amount on account of betterment. But in America, particularly, a desire for uniformity of system is likely to create sweeping changes, and methods of road construction which are necessary to one class of roads are more than apt to be extended to those which might still endure the old system.

The labor tax may find considerable employment in the administration of charity. Such administration in America seems to be tending to a voluntary central system, but in Europe, and particularly in Germany, the tax element enters to a large extent. Under the famous Elberfeld system, which is accounted among the very best, the duty of covering certain specified territory and of looking after persons who are dependent upon outside relief, or who are in a way to become dependent, is imposed upon certain specified citizens. It is their duty to reduce to the utmost the amount dispensed in alms and to place their charges, wherever possible, in a way to earning a living. The direct personal tax is calculated to prevent pauperism, while the indirect or money tax is calculated to increase it.

Thus far we have been reviewing the old forms of a service tax which may be characterized as individual service, in that the state commands the services of the individual direct, and in that the individuals contribute their respective quotas with the strength of their bodies or of their minds. These are survivals of an individual economy as distinguished from the later social economy. The general conclusions drawn from the study thus far may be stated as follows :



First, that a general or a class service tax is, generally speaking, financially vicious. From the standpoint of pure finance even the military tax is not excepted in this indictment, although owing to other considerations the balance of advantages may be in its favor. Specialization in industry has rendered the great majority of persons of either sex or of persons between any certain ages after maturity unfit for any single service. Work at the desk unfits a man for work on the roads; the clerk is deficient in both mind and muscle for manual service. The manual laborer, or the person of outdoor activities, on the other hand, is likewise unfitted for any sort of clerical work. The same process of rendering persons dependent and helpless in other lines than their own is going on in all departments of mental and manual labor. Hence wherever industry is not in a very primitive stage of development the most efficient service is the contractual service, and it is as important for the state to hire servants by voluntary contract, who are fitted for the kind of work required, as it is for the general industrial welfare that people be left quite free to select their private employments.

Second, that a wholesome form of enforced public service includes such duties as peculiarly appertain to citizenship, as in the case of jury service. The excellence of the jury system is not found in the extraordinary intelligence of the average juror, but in the fact that he is fresh from the people and is assumed to be in touch with the motives that influence and control men at the present time in their social and industrial relations. All the faults of juries are insignificant compared with what would certainly be a hard and fast, mechanical, and static tendency of an office conscious, and case-hardened tribunal. The very *naïveté* and simplicity of our jurors constitute at once the elastic and the dynamic elements in our judicial system. It is essential to social growth that causes be heard and determined by persons who are called in from other avocations for the purpose, and who are not too familiar with the more venerable tenets of the common law.

Third, that another wholesome form of public service which is imposed upon individuals is that which takes note of peculiar

qualifications of the individuals for the service desired. The best illustration of this class would perhaps be found in compulsory service in the cause of charity. For such service those members of the community would naturally be selected who possess the finest balance of human sympathy and sound judgment.

Attention is now directed to a new form of service tax. It might perhaps better be called a proposed new form, for if it exists at all now it is only in germ and it has found, as yet, no place, in the essays of financial writers. A service tax is here meant which is imposed for specific purposes, not upon individuals, but upon industries or corporate persons.

In the disqualification of the individual for personal service of the state, we are apt to read the doom of the general principle of a service tax—and not to recognize the growing power of the various institutions that are undermining the capacity of the individual, to serve directly the needs of society, which needs have, in large part, grown out of modern industrial organizations. We may fall into this error by failing to shift our view from the individual to the industrial aggregation or corporation.

In view of the great difficulties that have been encountered in attempts at securing a just money tax from corporate wealth, and of the general failure of such attempts, especially in the case of railroad and street-car companies, it is rather singular that attention has not been before this directed to schemes for making them directly serviceable to the state. It is also strange in view of some of the urgent and growing wants of the state, which are, in a sense, creatures of the expanding industrialism. Take, for example, the post-office service which is so vital a part of the industrial life. Cheap postage is undoubtedly a subsidy to general national industry as well as an educational force of high value. In the interest of cheap postage the United States is now covering, out of the general tax funds, a considerable annual deficit. Why has it never occurred to the members of Congress to wipe out the post-office deficit and provide for a still further

reduction in postage rates by taxing the services of the roads for the carriage of the mails? Is it perhaps because of the absence of a service-tax doctrine? It has been one of the problems of the century just closed how to make the railroads contribute their just share to the support of the state. The local units of government are beginning to abandon the task and the state governments are taking it up. Even if they succeed measurably well might not a direct service tax be more in the interest of both the state and of the companies themselves?

Whatever duties should be placed upon the railroads on behalf of the public it would be better if it were done by the Federal government. The interstate character of the railway service as well as the interstate character of commerce to which it ministers seem to make local fiscal control illogical and often vicious if successful. But whether the reader agrees with this or not he will likely be able to work out for himself a scheme of a service tax, and it is in nowise essential to suppose a revolution in the present fiscal policy in order to construct a scheme of railroad service tax. But for convenience of treatment it may be best to start with the assumption that this is a Federal matter. If the taxing power were centered in the Federal government the policy as to exacting services or money should turn upon the capacity of the roads for direct service. As to the possible services which the roads might render the following might be enumerated:

First, service to the post-office department, certainly in transporting the mails and possibly to a limited extent in providing office room in connection with small stations, and free transportation to mail carriers by local lines.

Second, for the transportation of members of Congress—and the same requirement might be made on behalf of the state legislators; and at one stroke the mileage perquisite might be done away with and the roads deprived of the pass method of currying public favor.

Third, for free transit to United States marshals and deputies and the free transport of prisoners—and this economy might

also be extended to the sheriffs and the constables under the various state and local governments.

Fourth, free transportation of any of the employees of the government while engaged in public work.

Fifth, to use this power to patronize public education, in affording free transportation to teachers and students when going to and returning from any colleges or universities, or high schools or academies, or other schools.

The advantage to public education of this species of tax merits special attention. It seems to meet what is perhaps the most urgent demand of the educational system, viz., better grading. This principle has already been described as follows :

To what extent the children of the different grades should find instruction from teachers trained in the different subjects is not an easy question to determine. But in so far as this species of specialization is introduced the best results will accrue where the sections of the different grades are sufficiently numerous to relieve the teachers of the necessity of adapting their methods of instruction to pupils of very different degrees of progress. A teacher in history, for example, will do better work if he repeats the same instruction to pupils in different sections of the same grade during the day than if he is obliged to adjust himself successively to different grades.

And the existing situation is thus described :

In so far as this is practicable it furnishes an argument in favor of enlarging the school districts in the cities and perhaps in a great majority of cities of concentrating them within a single building. Here it should be noted that the best possible grading is a much more difficult one in America than it would be in the cities of Europe. The compactly built cities of the continent, rendering public parks and shaded boulevards a breathing space necessity, have at least one compensating advantage, viz., abundant opportunity for the most thorough grading. American cities, on the other hand, with separate homes for most families, and with ample front and rear and side garden space the rule, have to meet the problem of distance to schools, and so long as legs are the common instruments of transportation the size of the school district must be limited by the capacity of the smallest legs, and the grading possibilities are likewise contracted.

And the following remedy is suggested :

Our splendid city distances are the foster parents of still more splendid urban and suburban street-car systems. The trolley has annihilated city distances and brought everyone within easy reach of everything and

everybody, and it is time this agency were brought to bear upon our schools, the grammar schools as well as the high schools.<sup>1</sup>

This kind of a tax might be better managed by the state than almost any other. Free transportation to and from any colleges within the state would be an appreciable bonus to higher education—in many instances equivalent to a free scholarship. It would also tend to raise the standard of education by removing the barriers of distance. It would, in fact, give to the colleges of the state more of the character of one university, allowing the small colleges to narrow their range of courses and offer as high grade of work as that offered by the larger institutions.

The state might also turn this power to the great improvement of the high school and the academy systems. It could then establish a standard for high schools and academies by fixing a minimum number of instructors in an institution, facilities for concentration in central institutions being provided. As, for example, a county might concentrate its high-school funds in some instances upon a single institution, or, where circumstances favored, high-school districts might be provided for including a radius of say forty miles at terminal centers—or of forty or fifty miles in length along a single line of road.

The county or local division of the county might be given authority to tax in this way and thus be enabled to build up a county system of schools of a high degree of excellence in counties favored with an extensive railway system. That is, there might be one strong county high school instead of a number of weak ones scattered among the villages of the county. And the feeders of the high school would likewise receive large increments of strength through the consolidation thus rendered available.

The principle might even be applied by the township or the school administrative district, and the road tax be made to greatly expedite the present movement towards school consolidation and grading in the country schools. The small schools

<sup>1</sup> See article "Public School Financing," by the writer, in the *Journal of Pedagogy*, v. 12, No. 3.

along the lines of road for quite a distance might be brought together and consolidated into a fairly well graded system.

The scheme is certainly workable in the interest of the city schools. Any city of, say 30,000 population or more, might assemble all the existing ward schools at a common center and work out the best possible system of grading.

So much by way of suggestion as to the wants which the various divisions of government might supply through the direct method of taxing railroads. It is purposed here simply to open the question as to the expediency of substituting, in part or in whole, a service tax for a money tax on the instruments of transportation, and as to whether such an innovation in our fiscal arrangements might not at once improve the public service in some important points and more equitably distribute the public burdens.

Now, as to the nature of the burden from the standpoint of the roads. It would seem upon the whole that they can better afford to pay in kind than in money. At least some forms of service payment would rest very lightly upon them. One of the most appreciable burdens among those mentioned, perhaps, would be that of carrying the mails. The addition of one or more cars does not add greatly to the labor cost, but it would be an appreciable tax upon the machinery of the engine and upon the fuel account. The transportation of government officials, on the other hand, would scarcely be felt at all. This kind of burden would be so widely diffused and it would come in such diluted form that it would be inappreciable as compared to the benefits conferred. And the same thing might be said as to the conveyance of students to and from colleges within the country or the state. In the great majority of these cases it would mean only a filling of seats which would otherwise remain vacant. And where additional cars would be required, the burden would fall upon those roads which are blessed with a heavy traffic, and which would be well able to bear it. The weak roads would be generally the best prepared to take care of the additional service without incurring extra cost. The extra travel resulting

from the arrangement could scarcely be called a burden, and the loss of fares, which the roads would otherwise receive, would not be considerable.

If the scheme were attempted in the interest of the high schools and of the country schools, where the burden would be of daily occurrence during the school term, it would be light if the convenience of the general traffic would fit in with the school hours. Where additional rolling stock would be required, those cars that would otherwise be discarded might often be sufficient to meet the demand; and as to the time of the morning and evening trains there might be a certain yielding of custom on both sides. The only absolutely essential point would be that a full school day must intervene between the arrival of the train in the morning and its departure in the evening.

In the cities also the service burden would prove much lighter than a money burden. It would deprive the companies of very few fares and fill up many cars which would otherwise be quite or nearly empty, for it must be remembered that the hours of going to and returning from school are hours of light street car traffic. Whatever additional rolling stock would be required could be supplied in the form of special trailers, thus avoiding the necessity for additional gripmen or conductors.

This sort of service tax, when applied to railroads and to trolley lines, will be found, upon examination, in almost every instance to obey the canon of taxation which prescribes that the burden be imposed at a time and in a manner when it may be the most easily and conveniently borne. And it will be found also to respond to Adam Smith's fourth canon of taxation, which prescribes that a tax should take out and keep out of the pockets of the people as little as possible over and above what goes into the public treasury.<sup>1</sup> In fact, the cost of administration would be as near nothing as possible. In the great majority of instances it would involve absolutely no cost of collection. Where free carriage is required the holder of a pass would be received on the same terms as the holder of a ticket. In the

<sup>1</sup> *Wealth of Nations*, book v. ch. ii. part ii.

case of the carriage of postal cars no excuse could be found for not attaching them to trains when presented, and a provision of penalties punishable by the courts should be sufficient to prevent any attempts at evading the burden. In the case of free transportation to the city schools, the companies might sleep upon their duties and neglect to provide a sufficient number of cars at the required hours were it not for the certain, immediate, and energetic complaints and protests on the part of parents.

Altogether such a tax would come as near to being automatic in its operation as any that could be contrived. Its enforcement would require the supervision of no bureau, and perhaps of no system of inspection. The ordinary law courts, acting upon complaints, would perhaps be sufficient for all requirements of administration.

The railroads have been adverted to at this length because they furnish the most conspicuous illustrations of ways in which the service tax may be applied to satisfy public wants. Other forms of corporate wealth might also be cited, as the telegraph companies, which might be required to transmit messages in connection with public affairs in lieu of money taxes; and banks might take charge of a large share of the disbursing business of the state, etc.

An investigation of the different possible applications of the principle which might be made to the advantage of the state might show the subjects of the tax to be monopolistic in character, and therefore as fit subjects for taxation as rent-yielding land. It might also be found that the tax would not be easily shifted. However, it is not intended here to present any hard and fast theories of the application of the service tax to distinctively modern conditions. While some kinds of corporate industries, which are very hard to reach by means of a money tax, seem to be capable of rendering valuable direct services to the state, it would be manifestly improper at this stage in the investigation to attempt a clear and definite classification of such industries. For example, the use of a service burden might sometimes be justified, even though it were shifted, and the



patrons of the industry should have to make it up in the form of higher charges, the public wants which were satisfied being the prime consideration. Neither a logical classification nor a careful examination of incidents are part of the purpose of this essay, which is, first, to give to the service tax what seems to be its rightful place in fiscal history; second, to direct attention to its present survivals in its old individual form; and, third, to indicate certain ways by which it might now be applied, not to the industrially transformed individual, but to some of the organisms into which industry has grown.

The corporation service tax may now exist in germ. As, for example, the establishment of a legal rate of fare on the railroads, as in the case of the New York Central, might be construed into a service tax to the extent of the difference between the legal rate of fare and what would otherwise be the market rate, the tax being imposed in the interest of the general public. The state may be said to be exercising the taxing power in this direct way in order to minister to the pleasures of the public or in the interest of trade, or it might be said to be in the interest of popular education. Attempts of several American cities to limit the fares charged by street-car companies might also be construed into attempts to impose a tax on behalf of the general public. And it may be that if the tax concept were unmistakably in the minds of the legislators, and if the fact that it was intended to be a service tax, in lieu of a money tax, were clearly set forth in the body of the bill or the ordinance, that such attempts would stand a better chance of receiving the sanction of the courts.

J. H. HAMILTON.

SYRACUSE UNIVERSITY.